FILED
AUG. 24 2007

(3)

No. 06-1641

IN THE

Supreme Court of the United States

JUAN C. ESPINOSA, *et ux.*,

Petitioners,

v.

UNION COUNTY, NEW JERSEY, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

REPLY BRIEF

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The Respondents did not address the simple and undisputed bases for the Petition for a Writ of Certiorari.

First, it was "undisputed" that Petitioner had a constitutionally protected "property interest in his job" as a jail guard at all times including when the Respondents ordered him to return to the jail. (App. 16a) (The Respondents' reliance on *Gilbert v. Homar*, 520 U.S. 924 (1997), provides no support for the lower Court's *sua sponte* conclusion that the Petitioner had a "weak" constitutional interest in his job.)

Second, it is undisputed that the Respondents admitted that the Petitioner "would be unable to return to work" in the jail and the lower Court took as true Petitioner's assertion that he "could not return to work." (App. 23a, 27a.) (The Petitioner was the first guard to break the Blue Wall of Silence. Also, the Petitioner was the only guard who tried to help the abused detainees, identified by the detainees as having tried to help them, praised as courageous in writing by the Prosecutor for his voluntary testimony, and permitted to leave the jail for safety reasons.)

Third, it was undisputed that Petitioner repeatedly pleaded for comparable alternative employment outside the jail and the Respondents never made any efforts to find alternative employment although they freely admitted that such positions were available.

Fourth, it is undisputed that the Petitioner now holds a nontenured position with a lower rank, earns less than half his prior salary, and will lose in excess of a million dollars through his retirement given his reduced salary, loss of benefits and pension, and overtime pay.

It is respectfully submitted that the termination of Petitioner's tenured employment for not returning to the jail was unlawful, and inherently discourages any law enforcement officer from voluntarily, and truthfully, testifying against a fellow officer in the future.

CONCLUSION

Petitioner respectfully requests that the Supreme Court grant review of this matter.

Respectfully submitted,

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